

DOINGS IN THE COURTS

Burglary Trial On Before Judge Gear.

Joe Caspino and Kamelo, burglary in the first degree, was on trial all day before Judge Gear. Deputy Attorney General Prosser for the prosecution; J. W. Cathcart and J. L. Kaulukou for the defense. The jury are as follows: F. J. Dutra, F. E. Blake, H. P. Roth, H. A. Parmelee, A. C. Dowsett, G. D. Mahone, Chas. Hummel, C. J. Ludwigsen, A. Nelson, J. F. Soper, E. Benner and C. F. Merrifield.

INSURANCE CASE.

Judge De Bolt is still engaged with the trial of Kwong Lee Yuen Co. vs. Alliance Assurance Co., one of the Chinatown fire cases, for which a jury was empaneled on Wednesday. Ballou & Marx for plaintiff; Robertson & Wilder for defendant.

The following named constitute the jury: W. M. Buchanan, E. S. Cunha, Henry Gehring, John A. Baker, A. R. Gurrey Jr., John Kidwell, John Isaac, Winfred H. Babbitt, Albert Lucas, Chas. S. Crane, Wm. Mutch and E. G. Carrera.

NOW DEMANDS LEGACY.

Mrs. Mary Downey gives notice to L. Schweitzer, executor of the last will of Samuel Sachs, deceased, that she withdraws her relinquishment of the legacy to her in said will, and now insists upon payment of the legacy in pursuance of the terms of the will.

DEMURRERS FILED.

In the suit of Ellen Albertina Polyblank, trustee, vs. David Kawanakoa et al., demurrers of Jonah Kananalele and Elizabeth K. Kananalele have been filed by their attorney, J. W. Ashford. They deny the jurisdiction of the Circuit Court at Chambers or any judge thereof. A misjoinder of parties plaintiff is alleged, in that Stella Keomalanai Coker, for whom the plaintiff named is trustee, is not made either plaintiff or defendant. It is also alleged as a misjoinder that the Territory of Hawaii has been joined as a party defendant, whereas neither the Circuit Court at Chambers or any judge thereof has authority to take cognizance of the matters alleged against the Territory of Hawaii. Another misjoinder stated is the naming of Abigail W. Kawanakoa and Elizabeth K. Kananalele as parties defendant, whereas the bill fails to show any interest of them or either of them in the cause of action, if any there be, set forth in the complaint. Finally, it is alleged that the complaint does not state facts sufficient to constitute a cause of action.

COURT NOTES.

Judge Robinson's jurors are excused until 10 o'clock Monday morning. Judge De Bolt granted a divorce to Caroline Bailey against Harrison S. Bailey on the ground of non-support. Lightfoot appeared for libellant; the bellee made no appearance.

W. O. Smith, executor of the will of Leopold Silva, has filed an inventory of the estate. The real property consists of 2 1/2 acres of land in Manoa Valley, and the personalty notes and mortgages amounting to \$2988.10.

Mrs. Kelula Mary Pukki petitions that she be appointed guardian of the property of her daughter, Mary Kahala, which consists of real estate valued at \$4122.50. The daughter joins in the petition, nominating her mother as guardian.

C. J. McCarthy has filed his oath of office as a jury commissioner for the first Judicial Circuit for the year 1914.

THIRD TOURNAMENT HALEIWA CUP

HALEIWA, Oct. 13.—The third tournament for the Haleiwa challenge cup will take place on the sixteenth and from present bookings at Haleiwa there will be more contestants for the handsome trophy than in any previous year. Dr. Hubert Wood of Waialua has been fortunate in placing his name in the cup. If he wins it again will become his permanent property, as he made a 48 at the last match will in the future be handicapped at that basis which will necessitate doing very much better playing than he has done of late to win. The year of the Haleiwa Golf Club have some reason all fallen off in their trying of late, with the possible exception of Oswald Mayall who plays times a brilliant but a very erratic one. It is hoped that C. W. Case will be back from Hawaii in time to participate. He gives promise in his play of being able with a little practice to give any club player a close run. All of the long grass has been cut on the Haleiwa links, and the putting greens have been greatly improved since the last contest. The date of Haleiwa Saturday will be largely attended, and

BURIAL AT OBERLIN OF MRS. WESTERVELT AND DAUGHTER

The Oberlin (O.) Tribune says:

The burial service over the remains of Mrs. Louise C. Westervelt, brought from Honolulu, Hawaii, and of Alice Lorena Westervelt her infant child, was held last Saturday forenoon at 10 o'clock in Westwood Cemetery. Rev. D. Bradshaw, pastor of the First church read a portion of scripture closing with the beautiful description of Joys of the Redeemed, as partially outlined in the book of Revelation. Rev. C. N. Pond spoke comfortingly and feelingly of the departed ones. After prayer the urn in which the ashes of the cremated body had been placed, was lowered with white ribbons into the grave, while Dr. Bradshaw repeated the ordinary funeral service.

Mr. Pond's address is here given in full.

It is very especially and particularly a service of love that has gathered us here today. On all customary occasions of this nature, however tender and reverent they may be made, there is one purpose of utility that must be subserved. The living must bury their dead from their sight. But no such purpose has brought us hither.

The precious dust of little Alice, two years old, had been resting in the bosom of mother earth twenty years in the middle East. The ashes of Alice's mother, brought hither in this sacred funeral urn, could find no more beautiful resting place than the Paradise of the Pacific, the fair island where she spent her latest years. But the husband and father has brought the one hundred miles from the East and the other thousands of miles over sea and land from the West that they might for love's sake be together interred in the home cemetery at Oberlin.

This is the expression of mother love, of conjugal affection and filial and family attachment, all of them being but streams from that fountain of all, the love of God. In that sentiment made operative every day, our departed friend Louise Clark Westervelt, was reared, as the daughter of Rev. and Mrs. George Clark. Well do I remember Mr. Clark's fervor and devotion. He seemed to me in a very unusual degree to combine the ardor and conviction of the evangelist with the prudent knowledge and wisdom of a man of the world. Growing up in this spirit, our Louise ever was true to it. I had an occasion to experience the pervasive influence of her kindness and hospitality when I passed a night and a day in her island home on Maui, fourteen years ago. Because of her

great weakness she could not be seen. But her thoughtful hospitality, in all the little careful plans for the happiness of my brother and myself, her guests, made us feel that although she was invisible, we were encompassed by her love and care. Similar was the influence that went forth from her during all the years. Shut in as she has been by physical limitation, yet there has radiated from her home the influence of trust, of faith and of friendship whose value has been felt and known in more continents than one.

The Master of all worlds has varied forms of service. Some he equips for great enterprises. With a nerve that never troubles, a sinew of steel, and a strength that never seems to wane, these great leaders push on the giant enterprises of God's care of Providence. Then there is the great mass of average workers who perform the tasks of the work-a-day world. With steady application and sturdy power they carry on the activities of nations and of continents.

But there is another class whose service is different. They are feeble; they suffer; they are sick. Their service is not to do but to bear. They patiently endure; they become the refiners of society, they teach us gentleness and patience, and tender affection. They are just as useful as are the strong or the seemingly more highly favored. They fulfill the beautiful thought of the master poet:

"His state is kindly.
Thousands at his bidding, speed and post,
O'er land and ocean without rest.
They also serve who only stand and wait."

Such was the service of our dear friend, born in 1850, graduated in 1870, a bride in 1873, the bride of death in 1904. Through these fifty-four years it has not been granted to serve in the fullness of equipment and strength but with patience, gentleness, resignation and love. And no one can feel that this service has been for naught.

All of us who have known our Louise have been blessed and helped by her influence. There is an inspiring faith and a contagion of trust that has extended its influence afar. We scarce need to offer the prayer that our brother may be helped and sustained. We already it is answered. He is sustained and he is helped. But we do pray that Divine Grace may be given him in enlarged measure and that from this open grave receiving this precious dust and these sacred ashes now united in their final resting place in this consecrated ground, he and all of us may go about the work of life with added inspiration and a new sense of the love of God which gave and which also has taken away.

THE JURY FINDS BOYD GUILTY OF EMBEZZLEMENT

(Continued from Page 1.)

In the business of the Land Office, which he was not called on to defend but which should not be taken into account against the defendant. It was a condition, according to the evidence, that had obtained under the defendant's predecessors. Counsel asked why it had taken the authorities so long to find out the defalcations in the Land Office, paying some attention in his remarks to the Auditor's responsibility. He referred to defalcations in other departments, mentioning that of Public Works, when Deputy Attorney General Fleming, Mr. Andrews being temporarily absent from the room, got up and objected to his going outside of the evidence.

Judge Robinson, who had been looking into law books, said he had not heard the remarks objected to, but with a few soothing words asked Mr. Chillingworth to proceed.

Mr. Chillingworth was soon again checked with an interruption on the same point by Mr. Fleming. At about that instant the Attorney General returned, when Mr. Chillingworth protested against members of the Attorney General's office bobbing up with interruptions while the head of the department was present conducting the case. Mr. Andrews did not interfere and defendant's counsel called the jury's attention to the "unseemly interruptions" and then picked up anew the thread of his remarks.

He laid great stress on Mahaula's volunteer statement that there was no stenographer present when, as he testified, he told Mr. Peters that Boyd gave his check for a bill produced among evidences of public money taken by Boyd. He accused Mahaula, in this as in other parts of his evidence, of suppressing facts in favor of Boyd. It was when he saw the check in court that Mahaula, as counsel viewed it, invented a story to show that he had nothing to do with the bringing of a false exhibit into court.

Mr. Chillingworth reviewed portions of the evidence, arguing therefrom that there was really none but Mahaula on which defendant could be convicted, as he had been left alone in conducting the defense he urged the jury to recall anything he might have omitted which bore on the innocence of guilt of the defendant, as it was their duty to weigh all the evidence. He felt assured that they were gentlemen who would render no snap judgment. Mr. Chillingworth closed with an assertion of his own belief that the defendant was innocent.

Attorney General Andrews did not waste a word on preliminary observations, but taking the chief exhibits of

documentary evidence in his hands plunged directly at the gist of the case. It is doubtful if ever a case of such importance was more tersely and effectively summed up at any bar of justice. There were no rhetorical fireworks in the Attorney General's address, unless some apt remarks on the consequences to the country of slack dealing with public money might be so described, but a sedulous hammering out of bald facts and a nailing to the counter of spurious coin of extenuation for malfeasance of public trust.

The Attorney General displayed the receipts for public money that had never reached the public treasury and reminded the jury that the defendant, as sub-agent of lands, was responsible under the specific terms of the law both for the collection and custody of all public money due the Territory in his district. There was a simple and excellent system in the Land Office for the collection of dues. A regular form of receipt was provided, having a stub for recording the details of each collection. Boyd, instead of using this form, had a special billhead printed, by means of which land rentals might be collected and no record of the transaction be preserved in the office. Mr. Andrews displayed to the jury the blank receipt leaf, untorn from the book and folded back to conceal it from a curious view, the number of which corresponded with that of the billhead receipt for one of the sums shown in this case to have never reached the Treasury. The contradiction of Boyd's statement that he had not taken up the cash business after returning from Hilo on September 24 until October 1, by a memorandum of a deposit in the Treasury made out in his own handwriting and signed by himself under date of September 28 the same year, was duly treated. Boyd's admission of having made all the entries in the cash book, excepting when he was absent from Honolulu, fixed his responsibility apart from the legal fact thereof.

Mr. Andrews took up Boyd's cipher code left with Mahaula, intended to apprise him of any danger arising out of a visit of the Auditor in his absence, saying that the document left absolutely no question of Boyd's knowledge that there was a shortage in his cash at the time he went to Hilo. The showdown of I. O. U.'s and other papers of like purport was not a part of the case had it not been for Boyd's avowing that, after the H. H. Wright incident, the whole system of advances of public money on salaries was abolished in the Land Office. It was entirely immaterial what might have been done before Boyd's time in office, he having admitted on the stand that the practice he had maintained were directly contrary to law and that he knew it.

Boyd's statements of having kept deposits of his own money in Mahaula's hands had been disproved. His explanation of the bill check was shown and proved false by Mahaula's signing out of the bill check. The Attorney

General was not resting strongly upon Mahaula's credibility, but in that and other parts of his evidence the circumstances all tended to show he told the truth.

Mr. Andrews, referring to Boyd's attempts to make Mahaula out as the thief of the money, in question, said that that was true. Boyd knew it before he was made Commissioner, knew it when he went to Hilo and to Washington. Yet on his leaving the office for the absence mentioned he had not only left Mahaula in charge of the Land Office funds but had made him the disburser of his (Boyd's) salary and given him entire control of his private finances. He acted on the theory that a man who stole Government money was the right man to entrust his own private money with. Not only that, but Boyd appointed the man he knew to be a thief, according to his present attitude toward Mahaula, to succeed himself as cashier of the Public Lands Office.

Mr. Andrews made a few strong reflections on the public consequences of allowing such misappropriation and private conversion of public money to go unpunished. He concluded by saying that there could not be a doubt in the minds of the jury that the defendant had been proved an embezzler of public money on all three counts of the indictment.

REPULSING JAPANESE

ST. PETERSBURG, Oct. 5, 6:20 P. M.

—Emperor Nicholas has at last received General Stoessel's official report of the desperate four days' assault of the besiegers upon Port Arthur from September 19th to September 23d, from which it appears that the unofficial report from Cheloo was by no means exaggerated. The Japanese displayed frenzied bravery, but they lost 10,000 men, and their only success was the capture of two redoubts guarding the water works.

They prepared for the assault by a general bombardment, and then launched their attacks simultaneously from the north and west. Night and day they fought under cover of a continual bombardment from their siege guns, and finally reached the redoubts on the north side, but only after the defenses there were completely demolished by shell fire from the west.

The Japanese efforts were directed chiefly against the commanding position on High mountain, which faces Pigeon bay, slightly south of Fort Etue. The mountain is 500 feet high, and if it had fallen its position would have given a tremendous lever against the chain of inner defenses. The carnage there was terrible and culminated September 22d, when the Japanese succeeded in reaching and occupying the Russian armored shelter trenches, whence they expected undoubtedly to storm the summit. During the night Lieutenant Pogorsky of the navy, at the head of a detachment of volunteers, descended upon the trenches and blew them up with pyroxylin bombs, producing a panic among the besiegers, who fled, leaving the mountain side strewn with dead.

The Japanese then abandoned further attempts, but after a day or two to recuperate, according to General Stoessel's second dispatch, dated September 30th, they resumed the bombardment of the city and outer works and began to construct zigzag approaches, to get a nearer point, from which to launch their next assault.

The loss of the water works is not considered vital, as there is a fresh water lake and numerous wells, as well as a condensing apparatus within the defenses.

General Stoessel recommends General Kondratenko, Lieutenant Pogorsky, Colonel Iman of the artillery and Captain Sychoff of the Fifth Siberian Regiment for the St. George Cross.

The complete repulse of the Japanese has evidently greatly inspired the garrison of Port Arthur. General Stoessel says the gallantry of the Russian troops was beyond praise, and adds that the garrison will hold out to the last drop of blood. General Stoessel adds that practically nothing remained of the water works redoubts when the surviving Russian evacuated them.

General Stoessel's dispatch, which was dated September 30th, says: "After bloody assaults from the 19th to the 23d of September there has been comparative tranquility around the fortress. On the night of September 23d the Japanese, after being repulsed by Lieutenant Pogorsky, fled in panic. They are now working very actively and are approaching by a tunnel and intrenchments. The bombardment was maintained both upon the forts and the buildings within the fortress."

"We make sorties frequently, driving back the enemy. The repulse of the last attack was especially due to Lieutenant Pogorsky, General Kondratenko, Colonel Iman and Captain Sychoff. The spirit of the troops is heroic. Wounded men are every day returning from the hospitals to the ranks. We pray God for victory and for the health of our majesty."

General Stoessel's report created great rejoicing and revived hope in his ability to defend the fortress. After the failure of the storming operations the War Office here would not be surprised if the Japanese changed their plan to a regular engineering siege.

CHAMBERLAIN'S COUGH REMEDY CURES COLDS.

This remedy acts on nature's plan, soothes the cough, relieves the lungs, aids expectoration, opens the secretions, and aids nature in restoring the system to a healthy condition. It is famous for its cures over a large part of the civilized world. For sale by all druggists and grocers. Benson, Smith & Co., Ltd., agents for Hawaii.

The Official and Commercial Record contains all meeting notices and all publication notices of every kind and description.

AREA FOR BUILDING

Chamber of Commerce May Cut Promotion Money.

The Chamber of Commerce met yesterday morning and adopted important resolutions. President Tenney was in the chair and over twenty members were present. The matter of a site for the proposed Federal building was laid before the Chamber by the president, who did so at the request of the Federal officials and Governor Carter. Mr. Tenney impressed the necessity of co-operation of the members. Resolutions which had been prepared by the board of directors were submitted. The first idea had been to select several sites and submit them to the Treasury Department, but it was later thought best to outline a section of the city within which it was the desire of the Chamber that the building be located.

E. I. Spaulding moved the adoption of the following resolutions:

"Resolved, That the President and Secretary of this body be requested to communicate with the Honorable Secretary of the Treasury, on the urgent need of Honolulu for a Federal building, suitable to the present and future needs of Federal officers, and petitioning that official to recommend an appropriation for such purpose in his next report to Congress."

"Resolved, Further, That the President and Secretary, in so presenting the matter to the Honorable Secretary of the Treasury, request that should an appropriation be made, such public building be erected on any suitable site within the following boundaries: Commencing at Halekualua street, up Fort street to Hotel street, along Hotel street to Richards street, down Richards street to King street, along King street to Millard street, down Millard street to Halekualua street, along Halekualua street to place of beginning."

And Resolved, Further, that the President and Secretary hand a copy of this resolution to Hawaii's Delegate to Congress, with the request that he do all in his power to procure an appropriation for said purpose."

Some suggestions were made to the effect that the fishmarket block should have been included but it was decided that as the new docks would bring it directly on the waterfront it was impracticable. It was also asked why Nuuanu street was not made the western boundary of the area. It was replied that that was too near Chinatown, that the city was growing in the other direction and that there was not a suitable site to be obtained in that section. The Washington officials have intimated that the proposed building is to be 160x150 with at least forty feet clear around it. It will probably be three stories in height. The resolutions were adopted without a dissenting vote and the recommendation accompanied by a map and photographs of the streets and buildings in the area will be forwarded to Washington.

The following resolutions were unanimously adopted:

"Resolved, That the President and Secretary communicate with the Honorable Secretary of the Treasury of the United States on the necessity of securing a revenue cutter for service in the Hawaiian Islands, and respectfully request that official to embody in his report to Congress a recommendation for an adequate appropriation for that purpose."

"And Further Resolved, That a copy of this Resolution be handed by the President and Secretary to the Delegate from the Territory of Hawaii to Congress, with the request that he use all means in his power to secure such appropriations."

In the afternoon the directors of the Chamber met in a very important session to consider the report of the committee which was appointed to look into the annual report of the Hawaii Promotion Committee. The sub-committee recommended to the directors that the sum furnished the Promotion Committee by the Chamber of Commerce be cut down to what is necessary to maintain the Honolulu office and circulate approved literature. The committee of investigation consisted of H. A. Ikenberg and E. I. Spaulding presented the report and on motion of F. M. Swaney it was laid on the table to be considered at a later meeting.

The report stated that the Promotion Committee had spent \$26,774.98 for advertising the Territory. This went to magazines and for nearly half a million pieces of literature. The local office had been an accommodation for tourists. Only one line had given lower steamer rates. The committee disapproved the inviting of editors to the islands as the guests of the Promotion Committee. The \$15,000 donated by the Chamber comes from a wharfage tax and many of the smaller importers are objecting to the tax in the present state of business. It was recommended that the tax be reduced and the Promotion Committee be required to give a detailed account of its expenditures quarterly. It was thought that the \$100,000 over that the committee had on hand would be sufficient for the present and it was recommended that the wharfage tax go to the improvement of the city, especially Kapalani Park. There was considerable discussion pro and con and the matter was laid on the table.

May Contest Notley.

It is reported that the Democrats are going to make an attempt to keep Notley's name off the ticket. A march is being made for a ruling of former Secretary Cooper which was to the effect that delegates must get in their names at the same time as nominees from outside districts. The Supreme court has declared the secretary's ruling null.